

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

PNC BANK, NATIONAL ASSOCIATION,)
)
)
Plaintiff,)
)
)
v.) Civil Action File No.:
) 1:14-CV-3368-ELR
KENNETH D. SMITH, WILLIAM R.)
DOOLEY, TERRY W. DOOLEY,)
ROBERT MCNAUGHTON, CHRIS)
DOOLEY, TIMOTHY R. STERRITT, and)
NEW SOUTH VISION PROPERTIES,)
LLC, a Florida Limited Liability Company,)
)
)
Defendants.)
)

**DEFENDANTS' MOTION TO DISMISS (PURSUANT TO FEDERAL
RULE OF CIVIL PROCEDURE 12(b)(6)), OR IN THE ALTERNATIVE,
MOTION TO CERTIFY**

COME NOW Defendants Kenneth D. Smith, William R. Dooley, Terry W. Dooley, Robert McNaughton, Chris Dooley, Timothy R. Sterritt, and New South Vision Properties, LLC, (collectively, "Defendants" or "Guarantors"), by and through their undersigned counsel, hereby moves pursuant to Federal Rule of Civil Procedure 12(b)(6), to dismiss Plaintiff's Complaint, or in the alternative, to certify

questions to the Georgia Supreme Court as set forth in Defendants' Memorandum of Law in Support of this Motion, which is being filed concurrently herewith.

Dated: January 9, 2015.

Respectfully submitted,

Andersen Tate & Carr, P.C.

/s/ R. Matthew Reeves
R. Matthew Reeves
Georgia Bar No. 598808
One Sugarloaf Centre
Suite 4000
1960 Satellite Blvd.
Duluth, Georgia 30097

Attorneys for Defendants Kenneth D. Smith,
William R. Dooley, Terry W. Dooley,
Robert McNaughton, Chris Dooley,
Timothy R. Sterritt, New South Vision
Properties, LLC

One Sugarloaf Centre
Suite 4000
1960 Satellite Boulevard
Duluth, Georgia 30097
(770) 822-0900 | Phone
(770) 822-9680 | Fax

LR 7.1 D CERTIFICATION

This is to certify that the within and foregoing has been prepared with one of the font and point selections approved by the Court in LR 5.1C: Times New Roman 14 point.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

PNC BANK, NATIONAL ASSOCIATION,)
) Civil Action File No.:
Plaintiff,) 1:14-CV-3368-ELR
)
v.)
)
KENNETH D. SMITH, WILLIAM R.)
DOOLEY, TERRY W. DOOLEY, ROBERT)
MCNAUGHTON, CHRIS DOOLEY,)
TIMOTHY R. STERRITT, and NEW)
SOUTH VISION PROPERTIES, LLC, a)
Florida Limited Liability Company,)
)
Defendants.)
)

CERTIFICATE OF SERVICE

This is to certify that I have this day presented the foregoing **Motion to Dismiss** to the Clerk of Court for filing and uploading to the CM/ECF system, which will send notice to the counsel of record listed below:

F. Xavier Balderas
Carlton Fields Jorden Burt, P.A.
One Atlantic Center
1201 West Peachtree Street
Suite 3000
Atlanta, Georgia 30509

This 9th day of January, 2015.

ANDERSEN, TATE & CARR, P.C.

/s/ R. Matthew Reeves

R. Matthew Reeves
Georgia Bar No. 598808

1960 Satellite Boulevard, Suite 4000
Duluth, Georgia 30097
(770) 822-0900 | Telephone
(770) 822-9680 | Facsimile

Attorneys for Defendants Kenneth D.
Smith, William R. Dooley, Terry W.
Dooley, Robert McNaughton, Chris
Dooley, Timothy R. Sterritt, New
South Vision Properties, LLC

2232700_1.DOCX